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10 Ronnie Palermino, and Tony Alovera
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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE**
16 **DISTRICT OF THE NORTHERN MARIANA ISLANDS**

17 ANGELITO TRINIDAD, et al,

18 **CIVIL ACTION NO. 97-0073**

19 Plaintiffs,

20 vs.

21 JOHN S. PANGELINAN, et al.,

22 **MOTION FOR AN ORDER**
23 **TO SHOW CAUSE FOR**
24 **CONTEMPT OF COURT/**

25 Defendants.

26 **MEMORANDUM IN SUPPORT**
27 **OF MOTION**

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29 **NOTICE OF MOTION**

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31 Plaintiffs, through counsel Lillian A. Tenorio, respectfully moves this court
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33 to issue an Order To Show Cause for Contempt of Court, to hold defendants John
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35 S. Pangelinan and Merced B. Pangelinan in contempt for disregarding an order of
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37 this Court, and to impose sanctions as deemed appropriate by the court. In support

1 of its motion, Plaintiffs state as follows:

2 1. On December 2, 1999, this court ordered from the bench that
3 defendants shall notify the court and obtain its approval prior to transferring,
4 conveying, or leasing their interest in any real property. Defendants were also
5 required to provide notice to the plaintiffs attorneys. *See* Notice of Order (Dec. 3,
6 7 1999).

8 2. On March 11, 2004, defendants Merced B. Pangelinan and John S.
9 Pangelinan executed a deed of gift conveying part of E.A. 423 to their daughter
10 11 Marji-Ann Pangelinan. *See* Ex. "A" attached hereto.

12 3. On July 27, 2006, on the eve of the published auction and sale of Lot
13 No. E.A. 222, defendant John S. Pangelinan executed the following documents: (1)
14 a self-styled "confirmation deed" purporting to "confirm" unto son Christopher B.
15 Pangelinan, a life estate in Lot No. E.A. 222; and (2) a self-styled "quitclaim deed"
16 purporting to convey a "remainderman's estate" in Lot No. E.A. 222 to his fourth
17 son, 10-year old Carlo B. Pangelinan. *See* Exs. "B" and "C."

18 4. In addition to the transactions on record at the Commonwealth
19 Recorder's Office, Plaintiffs have recently discovered that defendant John S.
20 Pangelinan has been receiving rental income from Francisco DLG. Aldan for the
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1 use of the southern portion of Lot No. E.A. 222.¹ According to Francisco DLG.
2 Aldan, he executed a written 10-year lease of approximately four hectares of the
3 lot about three years ago and pays monthly rent of \$200 to Mr. Pangelinan. *See L.*
4 Tenorio Decl. attached herewith.

5 5. After a review of plaintiffs' attorneys files on this matter, no record
6 has been found of any notice to either this court or plaintiffs' attorneys that
7 defendants would be executing the deeds and lease described above. *See L.*
8 Tenorio Decl.²

9 6. Defendants John S. Pangelinan and Merced B. Pangelinan are in
10 contempt of the court's December 2, 1999 Order.

11 Wherefore, for the foregoing reasons, and as set forth more fully in its
12 Memorandum in support of this motion, including supporting declarations and
13 exhibits, Plaintiffs respectfully request that the court enter an order to show cause
14 why defendants John S. Pangelinan and Merced B. Panglinan should not be found
15 in civil contempt and prays for the following relief:

16 1. That the court issue an order finding and holding defendants John S.

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¹ There is apparently another lease of Lot No. E.A. 222 with a Hugh Hargrove of Landmark Construction. In
18 July 2006, Mr. Hargrove told attorney Robert Torres that he has an oral lease for four years with defendant Pangelinan
19 for two hectares of the lot. Mr. Hargrove also stated that he has been paying monthly rent of \$1,500 to Pangelinan and
20 that he has a warehouse on the property.

21 ² The absence of any such record can only mean that defendants John S. Pangelinan and Merced B. Pangelinan
22 executed the conveyances and entered into the lease with no intention of complying with the December 2, 1999 Order,
23 and instead have engaged in conduct designed ostensibly to perpetrate fraud on the plaintiffs and to defy this court and
24 its orders. These are grounds to find and hold the Pangelinans in criminal contempt of the court's order.

1 Pangelinan and Merced B. Pangelinan in contempt for not notifying the court and
2 seeking leave to execute or enter into the above described transactions and for not
3 notifying Plaintiffs' attorney as directed in the Notice of Order dated December 3,
4 1999.

5 2. That the Plaintiffs request that the court declare the above deeds and
6 lease in violation of its December 3, 1999 Order and are null and void.

7 3. That Plaintiffs are awarded attorneys fees and costs incurred in
8 making this motion; and

9 4. That the Court grant any and all other relief deemed justified in this
10 matter.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
2 **MOTION FOR ORDER TO SHOW CAUSE**

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4 1. This court has inherent power to enforce compliance with its orders.

5 18 U.S.C. § 401(3) (1988) ("A court of the United States shall have power to

6 punish . . . at its discretion, such contempt of its authority . . . as disobedience or

7 resistance to its lawful writ, process, order, rule, decree, or command."); see also

8 *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 193-194 (1949).

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10 2. Failure to comply with a court order or decree may be deemed

11 contempt. In order for the defendant to be found in civil contempt, the Plaintiffs

12 must show by clear and convincing evidence that there was a lawful decree, that

13 the defendant had knowledge of the decree, and that the decree was violated.

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15 *Falstaff Brewing Corp. V. Miller Brewing Co.*, 702 F.2d 770, 777 n. 1 (9th Cir.

16 1983). Evidence of intent or willfulness on the part of the defendant is not

17 required for a finding of civil contempt. *McComb*, 336 U.S. at 191.

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19 3. In this case, there can be no dispute that the court's December 2, 1999

20 Order was lawful and that defendants had knowledge of it. On December 2, 1999,

21 this court ordered from the bench that defendants, among other things, "shall not

22 transfer, convey, sell, lease, rent, trade, encumber, assign, deed, give or

23 hypothecate any interest that they have in any real property without prior written

24 notice to and approval of the court and notice to plaintiffs' attorney." See Notice

1 of Order (Dec. 3, 1999).

2 4. The only issue is whether defendants violated the December 2, 1999
3 Order.

5 5. On March 11, 2004, defendants Merced B. Pangelinan and John S.
6 Pangelinan executed a deed of gift conveying part of E.A. 423 to their daughter
7 Marji-Ann Pangelinan, a copy of which was recorded at the Commonwealth
8 Recorder's Office. *See Ex. "A"* attached hereto.

9 6. On July 27, 2006, on the eve of the published auction and sale of Lot
10 No. E.A. 222, defendant John S. Pangelinan executed the following documents
11 which were recorded at the Commonwealth Recorder's Office on the same day: (1)
12 a self-styled "confirmation deed" purporting to "confirm" unto son Christopher B.
13 Pangelinan, a life estate in Lot No. E.A. 222; and (2) a self-styled "quitclaim deed"
14 purporting to convey a "remainderman's estate" in Lot No. E.A. 222 to his fourth
15 son, 10-year old Carlo B. Pangelinan. *See Exs. "B" and "C."*

16 7. In addition to the transactions on record at the Commonwealth
17 Recorder's Office, Plaintiffs have recently acquired information that defendant
18 John S. Pangelinan has been receiving rental income from Francisco DLG. Aldan
19 for the use of the southern portion of Lot No. E.A. 222.³ According to Francisco

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26 ³ There is apparently another lease of Lot No. E.A. 222 with a Hugh Hargrove of Landmark Construction. In
27 July 2006, Mr. Hargrove told attorney Robert Torres that he has an oral lease for four years with defendant Pangelinan
28 for two hectares of the lot. Mr. Hargrove also stated that he has been paying monthly rent of \$1,500 to Pangelinan and
that he has a warehouse on the property.

1 DLG. Aldan, he executed a written 10-year lease of approximately four hectares of
2 the lot about three years ago and pays monthly rent of \$200 to Mr. Pangelinan. *See*
3 L. Tenorio Decl. attached herewith. Mr. Aldan also stated that he has no copy of
4 the lease and that the only known copy is in Mr. Pangelinan's possession. *Id.*

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6 8. After a review of plaintiffs' attorneys files on this matter, no record
7 has been found of any notice to either this court or plaintiffs' attorneys that
8 defendants would be executing the deeds and leases described above.⁴ *See* L.
9 Tenorio Decl.

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11 9. By engaging in the conduct described above, Defendants John S.
12 Pangelinan and Merced B. Pangelinan are in contempt of the court's December 2,
13 1999 Order.

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15 10. Civil contempt "is a sanction to enforce compliance with an order of
16 the court or to compensate for losses or damages sustained by reason of
17 noncompliance." *McComb*, 336 U.S. at 191. The imposition and selection of
18 sanctions are matters left to the discretion of the trial court. *Falstaff*, 533 F.2d at
19 784. Defendants may be ordered to compensate the Plaintiffs for their efforts in
20 seeking the defendants' compliance with the order, "an award of costs and attorney
21 fees in civil contempt is clearly proper." *Shakman v. Democratic Organization of*

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28 ⁴ As argued the absence of any such record can only mean that defendants John S. Pangelinan and Merced B. Pangelinan executed the conveyances and entered into the lease with no intention of complying with the December 2, 1999 Order, and instead have engaged in conduct designed ostensibly to perpetrate fraud on the plaintiffs and to defy this court and its orders. There is sufficient basis to hold the Pangelinans in criminal contempt of the court's order.

Cook County, 533 F.2d 344, 351 (9th Cir. 1976).

11. Since defendants have violated the Court's order more than once, the United States requests that the Court (1) find both John S. Pangelinan and Merced B. Pangelinan in contempt; (2) declare as "null and void" the deeds and lease which were executed in violation of its order; (3) award the Plaintiffs their costs and attorneys fees incurred in making this motion; and (4) grant any an all other relief as the Court may deem justified by defendants' actions.

CONCLUSION

Defendants John S. Pangelinan and Merced B. Pangelinan have failed to comply with the court's December 2, 1999 Order requiring prior notice and approval of the court before executing deeds and leases involving their interests in any real property. Therefore, the Plaintiffs move the Court to issue an order requiring John S. Pangelinan and Merced B. Pangelinan to show cause why they should not be held in civil contempt.

Respectfully requested this 10th day of August 2006.

/s/
Lillian A. Tenorio
Attorney for Plaintiffs